

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Clifton Donell Lyles,)	C/A No. 4:18-cv-02935-SAL
)	
Plaintiff,)	
)	
v.)	
)	ORDER
Bryan Stirling, Richard Catharen,)	APPOINTING COUNSEL
Gary Leamon, Coach Speight,)	
Sally Elliott, and Doris Black)	
)	
Defendants.)	
_____)	

Plaintiff Clifton Donnell Lyles (“Plaintiff”), proceeding *pro se*, filed this civil rights action under 42 U.S.C. § 1983 on October 30, 2018. [ECF No. 1.] The court recently directed the parties to mediate this case by September 30, 2021. [ECF No. 117.] The September 30, 2021 deadline is an extension of the previous mediation deadline of June 25, 2021. Prior to the court granting the extension, Plaintiff noted that he was attempting to retain counsel. [ECF No. 116.]

While there is no right to appointed counsel in section 1983 cases, *Harwick v Ault*, 517 F.2d 295 (5th Cir. 1973), this court has the power to exercise its discretion “to request an attorney to represent any person unable to afford counsel.” 28 U.S.C. § 1915(e)(1); *Smith v. Blackledge*, 451 F.2d 1201, 1203 (4th Cir. 1971). But even then, the appointment “should be allowed only in exceptional cases.” *Cook v. Bounds*, 518 F.2d 779, 780 (4th Cir. 1975).

Here, Plaintiff has no legal training and limited resources with which to prepare for mediation and trial. The court concludes that these are exceptional circumstances and appointment of counsel is justified. See *Whisenant v. Yuam*, 739 F.2d 160, 163 (4th Cir.1984) (noting that if it is apparent to the district court that a *pro se* litigant has a colorable claim but lacks capacity to present it, the court should appoint counsel to assist him), *abrogated on other grounds by Mallard v. U.S. Dist.*

Court for S. Dist. of Iowa, 490 U.S. 296 (1989). As a result, the undersigned requested that Mark Moore and Michael Parente of Nexsen Pruet Law Firm represent Plaintiff in this action. Mr. Moore and Mr. Parente have agreed to undertake representation of Plaintiff and are hereby appointed as counsel for Plaintiff.

Mr. Moore and Mr. Parente shall file Notices of Appearance in this matter within five (5) days of the date of this Order. Additionally, counsel for both parties are to confer on a joint scheduling order for all pre-trial deadlines, including a date for jury selection and trial. Jury selection and trial must take place before March 1, 2022. The parties should submit the proposed scheduling order to lydon_ecf@scd.uscourts.gov within thirty (30) days of the date of this Order.

IT IS SO ORDERED.

/s/ Sherri A. Lydon
United States District Judge

June 30, 2021
Florence, South Carolina